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From-MARTIN&FERRAROLLP

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PATENT
Attorney Docket No. 115.0023-00000
Customer No. 22882

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
John I. Shipp
Serial No.: 10/708,715
Filed: November 12, 2003
For: SURGICAL LIGATION CLIP

) Confirmation No.: 7246

) Group Art Unit: 3731

Mail Stop MISSING PARTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

PETITION UNDER 37 C.F.R. § 1.47(b) AND STATEMENT OF FACTS

The undersigned hereby petitions the Commissioner under 37 C.F.R. § 1.47(b) to accept the attached Declaration (showing the last known address of the inventor), which has been executed on behalf of the assignee due to the refusal of the inventor to sign such Declaration.

The pertinent facts regarding this matter are as follows:

The above-identified application is a non-provisional application based on Provisional Application 60/425,521, assigned to Surgicon, Inc. ("Applicant") by way of Assignment recorded on March 5, 2003 at Reel 013462 and Frame 0080. A copy of the Assignment is submitted herewith as Exhibit A, along with a Statement Under 37 C.F.R. § 3.73(b) and Power of Attorney to the undersigned from Surgicon, Inc.

The undersigned provided copies of the above-identified application and unexecuted Declaration to the Applicant on several occasions, requesting execution and return of such Declaration for filing in the Patent Office. Subsequently, on June 4, 2004 the undersigned provided a copy of the above-identified application and unexecuted Declaration directly to the Inventor at a vacation location in Florida provided by Dr. Shipp (Exhibit B), requesting execution and return thereof for filing in the Patent Office. In response thereto, Dr. Shipp contacted me via telephone at my office on

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June 8, 2004 and told me that he would not sign the requisite Declaration because he lost money as a result of Surgicon's backruptcy.

The undersigned hereby petitions the Commissioner to allow Roberta Napolitano, trustee of Surgicon, Inc. ("Applicant"), whose mailing address is 350 Fairfield Avenue, Bridgeport, Connecticut 06601, to make application for patent on the above-identified application to avoid irreparable damage and preserve the rights of the Applicant. This Petition is being submitted to obtain a filing date of November 12, 2003.

The return copy of the Notice to file Missing Parts is enclosed. The requisite fee in the amount of \$130.00 as set forth in 37 C.F.R. § 1.17(h) is to be charged to Deposit Account No. 50-1068.

Please grant any extensions of time required to enter this paper and charge any additional required fees to our deposit account 50-1068.

Respectfully submitted,

MARTIN & FERRARO, LLP

Dated: July 9, 2004

By: 

Thomas H. Martin
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